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DEPARTMENT OF MENTAL HEALTH

<http://dmh.lacounty.info>

550 SOUTH VERMONT AVENUE, LOS ANGELES, CALIFORNIA 90020

Reply To: (213) 738-4601
Fax: (213) 386-1297

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TO: Each Supervisor

FROM: Marvin J. Southard, D.S.W.
Director of Mental Health

SUBJECT: **STATUS REPORT ON RELEASES OF MENTALLY ILL PERSONS
DISCHARGED FROM THE CRIMINAL JUSTICE SYSTEM TO LOS
ANGELES COUNTY**

This is to provide a status report on California Department of Corrections and Rehabilitation (CDCR) Non-Revocable Parolees (NRPs) being discharged from prisons and other correctional facilities as well as Los Angeles County (LAC) Department of Mental Health's (DMH) on-going concerns regarding mentally ill individuals being released from state hospitals to LAC.

CDCR NRPS: Effective January 25, 2010, Penal Code (PC) Section 3000.03 created a new classification of inmates eligible for parole. CDCR no longer is required to return to prison, place on parole or report any parole violations concerning inmates who were sentenced for "non-serious" or "non-violent" offenses. Accordingly, inmates in these categories are being released into the counties of their last legal residence without supervision or further involvement of the CDCR.

On March 2, 2010, CDCR provided an NRP presentation to your Board that clearly described procedures for managing the transition into the community of NRPs who were in need of mental health services. CDCR agreed to provide county mental health departments with a list of NRPs being discharged from standard parole that had been receiving mental health services in parole outpatient clinics or prisons and were in need of continuing care in the community. CDCR agreed to provide thirty-day prior notification to DMH and the Department of Health Services (DHS), and forward clinical information to county liaisons that would ensure continuity of care and preserve the public's safety. CDCR subsequently established a unit under the Division of Correctional Healthcare Services to notify and provide clinical information for NRPs to the counties.

During a September 20, 2010, conference call with the California Mental Health Directors Association (CMHDA) that represents the directors of public mental health agencies in counties throughout California, the following concerns were discussed with CDCR:

- CDCR has not been providing counties with a comprehensive list of NRPs in need of mental health treatment who may seek services in county-operated or contracted facilities. CDCR reported that they are unable to provide this information as a result of internal difficulties that have not yet been resolved.
- CDCR provides counties a two page document containing NRP's clinical information that is not sufficient to determine appropriate levels of care in most cases. CDCR has been unable to resolve issues of confidentiality within their system for the release of Protected Health Information (PHI) to the counties.
- Thirty-day notification to the counties of NRP releases continues to be unreliable and inconsistent.

NRPs are arriving in counties as medically indigent residents without funding for housing or basic living. While CDCR submits applications for benefits prior to release in some cases, NRPs are required to contact local Social Security Offices upon their arrival in the county of residence to complete the process. No protocol for communication between CDCR benefits establishment contacts and counties is currently in place.

CMHDA is revisiting the transfer process that CDCR previously communicated, including timeline expectations, in order to identify better ways of transitioning State inmates in need of mental health treatment back into the community.

IMMINENT DISCHARGES FROM STATE HOSPITALS: Inmate releases from state hospitals continue to be an on-going concern. In accordance with PC Section 1370, felony defendants that have been adjudicated incompetent to stand trial are ordered to state hospitals for competency restoration services. Although, the State has up to three years to work to restore competency, increasingly these defendants are being referred to LAC Public Guardian for placement on mental health conservatorships within 180 days to a year of admission, based on state hospital treatment teams' reports that they will not be restored to competency. Once the conservatorship is established the court may terminate the PC commitment, resulting in the individual's state hospital bed cost becoming the financial responsibility of the county of residence.

In addition, there are inmates in state hospitals whose legal status is Not Guilty by Reason of Insanity or Mentally Disordered Offender whose commitments are not being extended and whom the courts are ordering to be discharged to the community of legal

residence with no or a few days advance notice. In some cases, these are individuals with histories of violence who could present a danger to the community.

On July 26, 2010, Dr. Stephen Mayberg and Cynthia Rodriguez from the State Department of Mental Health (SDMH) and representatives from Atascadero State Hospital, Patton State Hospital, and DMH participated in a conference call to discuss our concerns about imminent discharges and the critical importance of a coordinated approach. Three primary issues that DMH and SDMH committed to pursue together were identified:

- Improved communication: The DMH point of contact was confirmed and the State forwarded to DMH a list of forensic and CDCR coordinators. Difficulties with placing registered sexual offenders and undocumented individuals were discussed and SDMH agreed to develop their own committee to further articulate these and other issues.
- Information sharing prior to release: SDMH agreed to form an information sharing workgroup to address disclosure of PHI to the counties.
- Changes in the Judicial Process: SDMH confirmed DMH's experience regarding changes in the judicial process including placing more emphasis on outside evaluators retained by the Public Defender's or the District Attorney's Office, rather than the state hospitals' assessment of the readiness of the individual for discharge. SDMH is tracking this matter. Everyone agreed that district attorneys and public defenders would benefit from education regarding the severity of clients' illnesses and the need for maintaining their PC commitments to the state hospitals.

Both DMH and DHS are responding quickly when notified to impending releases of individuals who require assistance and who could pose a danger to themselves or the community. All departments are committed to mitigating the risks to the individuals being released and to our county. Unfortunately, the actions of SDMH and the judiciary may be inconsistent with the direction deemed advisable by representatives of many county departments and local law enforcement officials.

JS:RK:MM:mm

c: Robin Kay, Ph.D.
Roderick Shaner, M.D.
Tony Beliz, Ph.D.
Connie Draxler
Mary Marx, L.C.S.W.